

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SURFACE PREPARATION	:	
TECHNOLOGIES, LLC	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO.:
	:	
DICKSON INDUSTRIES, INC.,	:	JURY TRIAL DEMANDED
Defendant.	:	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Surface Preparation Technologies, LLC ("SPT") brings this action against Defendant, Dickson Industries, Inc. ("Dickson"), and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action for infringement of United States Patent No. 8,821,063 ("the '063 patent"), arising under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

PARTIES

2. Plaintiff Surface Preparation Technologies ("SPT") is a Limited Liability Company organized and existing under the laws of the Commonwealth of Pennsylvania, and having its principal place of business at 81 Texaco Road, Mechanicsburg, Pennsylvania 17050. As such, SPT is a citizen of the Commonwealth of Pennsylvania.

3. Upon information and belief, Dickson ("Dickson") is an Oklahoma Corporation with an address of 232466 Skagg City Road, Tecumseh, Oklahoma, 74873 and is a citizen of Oklahoma.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Dickson by virtue of the commission of acts described herein in this Commonwealth and in this district.

8. Venue is proper in the Middle District of Pennsylvania pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

GENERAL ALLEGATIONS APPLICABLE TO ALL COUNTS

9. SPT is engaged in the business of, among other things, designing, developing, manufacturing, and distributing rumble strip cutting, or milling machines, for use throughout the United States and the world.

10. On September 2, 2014, United States Letters Patent No. 8,821,063, entitled “Control System and Method for Road Cutting Machine” (“the ‘063 patent”) was duly and legally issued to H. Matthew Johnson, et al., and assigned to SPT. SPT is, and at all relevant times has been, the assignee of the ‘063 patent. A copy of the ‘063 patent is attached here to as Exhibit A.

11. The ‘063 patent claims, among other things, a unique, novel, inventive and non-obvious control system and method for cutting depressions in a road surface which is commonly used, for example, for cutting rumble strips along the shoulders or centerlines of roadways, to include a controller for the system that adjusts the cutting head movement proportionally with the forward speed of the machine, and adjusts the depth of cuts, based upon feedback from the cutting head.

Exhibit A.

12. SPT manufactures its cutting machines and control systems to cut rumble strips and sells the machines pursuant to contracts with various governmental and private highway and road maintenance organizations nationwide.

13. SPT has permanently affixed notice of its patent in the form "U.S. Patent No. 8,821,063" on each rumble strip cutting machine.

14. Upon information and belief, Defendant Dickson is in the business of manufacturing, selling and distributing rumble strip milling machines and control systems associated therewith, throughout the United States, including the Commonwealth of Pennsylvania.

15. Dickson is currently selling a product identified as the Rumbler 6200 pavement rumble strip milling machine for use in cutting median rumble strips and centerline rumble strips ("Rumbler 6200").

16. Dickson's Rumbler 6200 is being sold and offered for sale at least through its website. A copy of those website advertisements is attached hereto as Exhibit B, including photographs of the Rumbler 6200 milling machine.

19. SPT became aware of Dickson's use of the Rumbler 6200 in or around September, 2017.

20. On information and belief, Defendant Dickson had actual and/or constructive notice of the '063 patent at all times prior to the introduction and/or use of the Rumbler 6200.

21. Defendant Dickson is infringing the '063 patent by manufacturing, selling and or using the Rumbler 6200.

22. Upon information and belief, Defendant Dickson's actions have been motivated exclusively by financial gain and have been taken with full knowledge of the '063 Patent.

COUNT I

(Infringement of U.S. Patent No. 8,821,063)

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23. SPT incorporates herein by reference the averments of Paragraphs 1 through 22, above.

24. Dickson has infringed and continues to infringe the '063 patent in this district and elsewhere in the United States by its manufacture, sale and/or use of the Rumbler 6200 without authority or license of SPT.

25. Dickson's infringement of the '063 patent has injured SPT and SPT is entitled to recover damages adequate to compensate it for such infringement, not less than a reasonable royalty.

26. Dickson has caused and will cause SPT substantial damage and irreparable injury by its infringement of the '063 patent, and SPT will continue to suffer damage and irreparable injury unless and until Dickson is enjoined by this Court from continuing such infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Surface Preparation Technologies demands that this Court enter Judgment as follows:

- A. Finding that Dickson has infringed the '063 patent under 35 U.S.C. § 271;
- B. Awarding Surface Preparation Technologies its actual damages, not less than a reasonable royalty, to adequately compensate for Dickson's infringement, together with interest and costs as fixed by the Court;
- C. Enjoining Dickson and its subsidiaries, affiliates, agents, officers and employees and all others acting in concert with them from infringing the '063 Patent, or, in the alternative, awarding Surface Preparation Technologies a post-judgment royalty for Dickson's continued use of Surface Preparation Technologies' patented invention;
- D. Finding that the infringement of the '063 Patent by Dickson has been willful and trebling the damages awarded as provided by 35 U.S.C. § 284; and
- E. Granting Surface Preparation Technologies such other relief as is just and proper.

SPILMAN THOMAS AND BATTLE, PLLC

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Dated: December 18, 2017